Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

In the Matter of	)	
	)	
Implementation of	)	
Infrastructure Sharing	)	CC Docket No. 96-237
Provisions in the	)	
Telecommunications Act of 1996	)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint") on behalf of the Sprint Local Telephone companies and Sprint Communications Company L.P., hereby submits its Replies to Comments filed in response to the November 22, 1996 Notice of Proposed Rulemaking ("NPRM") released in the above-captioned docket.

Sprint's Comments noted that "Section 259 has a purpose that is separate and distinct from Section 251."[1] Many commenting parties agreed. As the RTC stated: "To surrender the design of this section [259] to the Commission's rules on interconnection, which are intended for an entirely different purpose -- i.e. the development of competition -- would flout the intent of Congress."[2] This critical difference between the two sections provided the driving force behind many of the Comments.

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1. Sprint Comments at p. 5.

2. Comments of the Rural Telephone Coalition at p. 2 ("RTC"). See also, NYNEX Comments at p. 2, AT&T Comments at p. 2, and Comments of Alltel Telephone Services Corporation at p. 3.

Thus, most Commenters argued, and Sprint agrees, that only general guidelines -- not detailed, specific rules -- are necessary. The parties to Section 259 sharing agreements should be left largely free to negotiate their own arrangements:

> The RTC agrees with the Commission that the best way for it to implement Section 259 is through general rules and guidelines. Many of the qualifying carriers under Section 259 will be independent LECs that have been successfully negotiating mutually beneficial sharing arrangements for more than 100 years with virtually no federal government intrusion. These agreements can take many forms and vary by State. The FCC can best implement Section 259 by giving carriers the necessary flexibility to negotiate the arrangements that serve their particular needs.[3]

Also, because of this critical difference, and because of the express terms of Section 259(b)(6), most commenters agreed with Sprint that Section 259 sharing arrangements should not be available to a qualifying carrier that competes with the providing ILEC.[4] However, ALTS claims that:

> Qualifying carriers should be permitted to use Section 259 services and facilities for any purpose, provided only that when such services are utilized outside the qualifying carrier's universal service territory, the provisioning incumbent must be compensated for such use pursuant to the pricing standards of Section 251.[5]

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3. RTC at p. 3. See also, Comments of GTE Service Corporation at p. 2 ("GTE"), Comments of Southwestern Bell Telephone Company at p. 1 ("SWBT"), and Comments of the Minnesota Independent Coalition at pp. 7-10.

4. See, e.g., GTE at p. 5 and Comments of Ameritech at pp. 8-9.

5. Comments of the Association for Local Telecommunications Services at p. 1 ("ALTS").

ALTS goes on to suggest that prohibiting the use of Section 259 for competitive purposes would be an unlawful noncompetition agreement.[6]

ALTS is wrong. The statute expressly prohibits the use of Section 259 for competing against the providing ILEC.[7] If a qualifying carrier desires to compete, it is free to do so -- utilizing all of the provisions of Section 251 (as opposed to just the pricing provisions), not 259. Furthermore, where the qualifying carrier is outside its universal service territory, Section 259 by its express terms is no longer applicable -- regardless of whether the qualifying carrier is thereby competing with the providing ILEC. In such circumstances, it is no longer a question of infrastructure sharing for purposes of ensuring universal service and Section 259 is irrelevant.

Additionally, it must be noted that Section 259 establishes requirements for the sharing of infrastructure, not the provision of service. As USTA notes:

> For example, because infrastructure sharing was conceived of as a co-carrier arrangement, Section 259 does not require resale of services. Under infrastructure sharing each LEC retains responsibility for service provisioning and maintenance in its service area, and maintains a direct relationship with its customers. Thus the statute addresses public switched network "infrastructure, technology, information, and

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6. Id. at p. 5.

7. Section 259(b)(6).

> telecommunications facilities and functions,".... Services are not mentioned.[8]

Quite simply, Section 259 was not intended as a competition enhancing vehicle. Section 251 addresses that goal. Rather, Section 259 enhances the ability of smaller carriers to provide universal service -- period.

Additionally, Sprint agrees with Ameritech that providing ILECs cannot be required to develop or build infrastructure upon the request of a qualifying carrier - even if doing so is not economically unreasonable:

> The PLEC [providing LEC] is most certainly not required to build new facilities solely to suit the QLEC [qualifying LEC], but that is not just because it would be, in some cases, economically unreasonable to do so. The far more fundamental reason is that under Section 259, the infrastructure must already exist, or at least be planned for by the PLEC, in order for there to be any "sharing" thereof.[9]

Finally, Sprint reiterates that mandatory patent licensing is not required to effectuate the sharing arrangements under Section 259.[10] Only the RTC argued that such licensing is

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8. Comments of the United States Telephone Association at pp. 4-5 ("USTA"). See also, Comments of Frontier Corporation at p. 2.

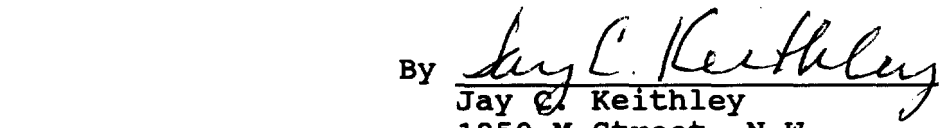
9. Ameritech at p. 6. See also, USTA at p. 15.

10. Sprint at p. 5. See also, SWBT at pp. 5-9 and Comments of Octel Communications Corporation, both in opposition to mandatory licensing.

necessary.[11] However, as Sprint pointed out, infrastructure sharing can be accomplished through service agreements.

Respectfully submitted,

SPRINT CORPORATION

By 

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11. RTC at p. 6.

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 3rd day of January, 1997, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Reply Comments of Sprint Corporation" in the Matter of Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996, CC Docket No. 96-237, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.

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